

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SONICSOLUTIONS ALGAE CONTROL, LLC,
SONIC SOLUTIONS, LLC, and
ALGAECONTROL.US LLC,

Plaintiffs

VS.

DIVERSIFIED POWER INTERNATIONAL, LLC,
and ANTONIO TRIGIANI,

Defendants

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Civil Action No.
3:21-cv-30068-KAR

DECLARATION OF MARK S. DESSAUER

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is Mark S. Dessauer. I have personal knowledge of the facts set forth in this Declaration and in making this Declaration, I have also relied on information made available to me that I believe is credible. I am an attorney licensed to practice law in the State of Tennessee. My Tennessee Board of Professional Responsibility Number is 10421. I am the counsel of record for the Defendants Diversified Power International, LLC ("DPI") and Antonio Trigiani ("Trigiani") (DPI and Trigiani sometimes collectively hereinafter the "Defendants") in this case.

2. Based on my investigation to date, the facts known to Defendants and the allegations made by the Plaintiffs in this case, the Defendants may call the following persons as fact witnesses in a trial on this matter:

a. Antonio Trigiani. Mr. Trigiani is the President and sole member of DPI. Mr. Trigiani resides in Tennessee. Mr. Trigiani will be a principal witness for DPI and himself in this case. He will testify with respect to the matters set forth in his Declaration [Doc. 26-1] and Supplemental Declaration filed in this case [Doc. 47-1], and such other matters as may become relevant or at issue in this case. Mr. Trigiani is also a custodian of DPI's business and financial records all of which are kept and maintained in Tennessee.

b. Donna Trigiani. Ms. Trigiani is the Human Resources Manager for DPI. She resides in Tennessee. Ms. Trigiani is a custodian of the personnel records of DPI. She will testify regarding the personnel records of DPI regarding Charles Morgan, Russell Urban, Kristin Luttrell and Lena Kaywood Collins, former DPI employees. These persons left the employ of DPI and went to work for Algaesonix, LLC, a Wyoming limited liability company ("Algaesonix") with principal offices located in Johnson City, Tennessee. Based on e-mail correspondence of Tara Spitzer, a principal witness for Plaintiffs [See Doc. 50], Algaesonix and Sonic Solutions Algae Control, LLC ("SSAC"), a plaintiff in this case, are one entity. [See Doc. 47-1].

c. Thomas Calbert. Mr. Calbert is a DPI employee. He resides in Tennessee. He will testify regarding his interactions with Charles Morgan and Russell Urban, while employees at DPI, and their efforts to utilize DPI proprietary information for the apparent benefit of Algaesonix and in turn, SSAC. Mr. Calbert is a critical DPI employee and cannot be away from the company for extended periods of time. He is

also the sole caretaker for a family member making it extremely difficult for him to travel to Massachusetts to testify at trial in this case.

d. Paul Woods. Mr. Woods is a DPI employee. He resides in Tennessee. Mr. Woods will testify about his interactions with Charles Morgan, while employed at DPI, Lawrence Field of Algaesonix, and Dana G. Taylor, the managing member of SSAC. Mr. Woods will also testify regarding a presentation made to Florida Gulf Coast University involving DPI's HBS products that was also attended by Devon Assael, an employee and representative of SSAC. The power point presentation that was made to Florida Gulf Coast University contains the following statements:

AlgaeSonix is Acquiring 2 Synergistic Companies To
Form The Global Leader In Algae Remediation

Algaesonix, LLC (AlgaeSonix) has a letter of intent to acquire the HydroBio Sciences Division (HBS) of Diversified Power International, LLC (DPI). DPI owns the only patented solution to destroy algae - chemical free using ultrasonic frequency technology.

Algaesonix has a letter of intent to acquire Sonic Solutions Algae Control, LLC, (SSAC) which is the distributor of HBS and has 3,000 installations plus a worldwide network made up of dealers and distributors around the world.

This document reflects that Algaesonix has acquired or intends to acquire SSAC. Mr. Woods was also solicited by Charles Morgan and Lawrence Field to work for Algaesonix and has knowledge of other matters at issue in this case including the relationship between DPI and SSAC.

e. Charles Morgan. Mr. Morgan is a former DPI employee. He resides in Tennessee. Mr. Morgan now works for Algesonix. He has also filed a Declaration in this case which makes him a witness and his credibility at issue. Mr. Morgan is also a party to litigation that involves similar factual issues as this case that is pending in Tennessee. Mr. Morgan has yet to be deposed but it is anticipated that he has personal knowledge of and will testify to a number of topics and issues in this case including efforts he made, while an employee of DPI, to direct business from DPI to SSAC, the theft of parts and materials of DPI relating to its HBS products for the benefit of Algaesonix and in turn, SSAC, and the allegations made by the Plaintiffs. Mr. Morgan also recruited DPI employees to go to work for Algaesonix, an affiliate of SSAC and it is anticipated that he will testify to such recruitment efforts.

f. Russell Urban. Mr. Urban is a former DPI employee. He resides in Tennessee. Mr. Urban now works for Algaesonix. Mr. Urban, based on information and belief, was recruited by Mr. Morgan to leave the employ of DPI and go to work for Algaesonix. Mr. Urban together with Mr. Morgan engaged in the theft of parts and materials belonging to DPI for the benefit of Algaesonix and in turn, SSAC. Mr. Urban has yet to be deposed, but it is anticipated that he will testify to these and other topics at issue in this case including the allegations made by the Plaintiffs. Mr. Urban is a party to litigation that involves similar factual issues as this case that is pending in Tennessee.

g. Kristin Luttrell. Ms. Luttrell is a former DPI employee. She resides in Tennessee. She now works for Algaesonix, an affiliate of SSAC. Ms. Luttrell has yet to be deposed but it is anticipated that she will testify regarding her knowledge to a number

of topics at issue in this case. Ms. Luttrell is a party to litigation that involves similar factual issues as this case that is pending in Tennessee.

h. Lena Collins. Ms. Collins is a former DPI employee. She resides in Tennessee. She now works for Algaesonix, an affiliate of SSAC. Ms. Collins has yet to be deposed but it is anticipated that she will testify regarding her knowledge to a number of topics at issue in this case. Ms. Collins is a party to litigation that involves similar factual issues as this case that is pending in Tennessee.

i. Flora Mosley. Ms. Mosley is a DPI employee. She resides in Tennessee. She will testify regarding efforts made by Charles Morgan to convince her to leave the employ of DPI and go to work for Algaesonix, an affiliate of SSAC. Ms. Mosley has various health issues which would prevent her from traveling to Massachusetts to testify at the trial of this case.

j. Joe Weir. Mr. Weir is a DPI employee. He resides in Tennessee. His job duties include the assembly of DPI's HBS products. Mr. Weir will testify regarding meeting with Charles Morgan and Lena Collins where they tried to convince Mr. Weir to leave DPI and go to work for Algaesonix, an affiliate of SSAC. Mr. Weir has a disability and would be unable to travel to Massachusetts to testify at the trial of this case.

k. James Stamey. Mr. Stamey is a DPI employee. He resides in Tennessee. It is anticipated that Mr. Stamey will testify regarding his discussions with Russell Urban regarding Mr. Urban going to work for Algaesonix, an affiliate of SSAC,

and a potential job for Mr. Stamey at Algaesonix. Mr. Stamey is a critical employee of DPI and it would be harmful to the company to have him away for extended periods.

l. Matthew Watson. Mr. Watson is a DPI employee. He resides in Tennessee. It is anticipated that Mr. Watson will testify regarding efforts made by Charles Morgan and Russell Urban to convince him to leave the employ of DPI and go to work for Algaesonix, an affiliate of SSAC.

m. George Barton. Mr. Barton is a DPI employee. He resides in Tennessee. Mr. Barton is DPI's IT Administrator. He will testify regarding requests made by Charles Morgan to provide him with information from DPI computers. Mr. Barton also uncovered various documents and e-mails that showed that representatives of SSAC and Mr. Morgan were engaged in unauthorized communications regarding a substantial project in Uruguay to the detriment of DPI. It is also anticipated that Mr. Barton will testify regarding other electronic communications between Mr. Morgan and SSAC, while Mr. Morgan was still an employee of SSAC.

n. Brittany Childers. Ms. Childers is a DPI employee. She resides in Tennessee. She is the financial accounting manager for DPI. It is anticipated that she will testify regarding the various sales of DPI products to the Plaintiffs and the other financial matters at issue in this case. She is also a custodian of DPI's business and financial records which are kept and maintained in Tennessee. Ms. Childers is a critical DPI employee. It would be harmful to DPI if she was required to travel to Massachusetts for this trial and be away from DPI for extended periods of time.

o. Faith Johnston. Ms. Johnston is a former DPI employee. She resides in Tennessee. She has substantial knowledge regarding the historical relationship between DPI and Sonic Solutions, LLC. Ms. Johnston is retired and due to family health issues, she would not be able to travel to Massachusetts for the trial of this case.

p. Linda Blankenship. Ms. Blankenship is a former DPI employee and is retired. She resides in Tennessee. She worked in DPI's CAD department and unknowingly prepared layout models for the Uruguay project that Charles Morgan utilized for the apparent benefit of SSAC while an employee of DPI. Ms. Blankenship is the sole caretaker of a family member and would be unable to travel to Massachusetts for the trial of this case.

q. Todd Austin. Mr. Austin is a DPI employee. He resides in Tennessee. It is anticipated that he will testify regarding Charles Morgan and Russell Urban's capabilities regarding the HBS products and product line.

r. Michael Wolf. Mr. Wolf is a DPI employee. He resides in Tennessee. He was a witness to Charles Morgan and Russell Urban working on a water quality monitoring project while employed at DPI and which DPI alleges that they converted or are attempting to develop utilizing DPI trade secrets and proprietary information for the benefit of SSAC and Algaesonix. Mr. Wolf is a single parent with family health issues and could not travel to Massachusetts to testify at the trial of this case.

s. Lawrence Field. Mr. Field is the principal and owner of Algaesonix. Algaesonix's principal place of business is located in Johnson City, Tennessee. Mr. Field has filed a declaration in this case, making him a witness. Although Mr. Field has yet to be deposed, it is anticipated that he has knowledge of a majority, if not all, of the facts at issue in this case. Algaesonix is a party to the litigation that is pending in Tennessee and has filed a counterclaim raising substantially the same factual issues that the Plaintiffs have raised in this case.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed, this the 11th day of August, 2021.

Mark S. Dessauer
Mark S. Dessauer

SWORN TO AND SUBSCRIBED before me this the 11th day of August, 2021.

Jessica Torres
Notary Public

My commission expires:

5/28/2025



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 11, 2021, the foregoing **Declaration** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties have been served by hand delivery, overnight delivery, facsimile transmission, or by mailing a copy of same by United States Mail, postage prepaid.

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s/Mark S. Dessauer

Mark S. Dessauer